

REMARKS

Reconsideration and allowance are respectfully requested in view of the foregoing amendments and the following remarks.

Claims 12-21, 23, 25 and 26 are pending in this application.

Claims 22 and 24 have been cancelled without prejudice.

Claims 12, 16 and 25 have been amended.

Regarding the Allowable Subject Matter

Applicant appreciates the Examiner's indication that claims 22 and 24 would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. Applicant has amended independent claim 12 by incorporating the limitations of objected to claim 22. Applicant has also amended independent claim 16 by incorporating the limitations of objected to claim 24. Thus, independent claims 12 and 16 are believed to be ready for allowance. Applicant respectfully requests that the rejections to claims 12, 16 and the related dependent claims be withdrawn.

Regarding claim 25

Regarding claim 25, this claim, as amended, recites that, "the structure layers each having outside edges and being substantially parallel to each other; and a support layer on a portion of the outside edges for supporting the structure layers." In the present Advisory Action the Examiner confuses the meaning of the words "can be". The Stankus reference states at col 8, lines 5-10 that "the sidewall spacer 70 in any material which *can be* etched selective to the layers 62-68 and the substrate 12." (emphasis added) The meaning of "can be" here does not mean that it might be etched or it might not be etched. It means that when the next etching process occurs, the sidewall spacer 70 will be etched selective to the other

layers. In fact at col. 8, lines 16-32 spacer 70 is etched away. There is no discussion of not etching spacer 70. The spacer layer 70 is just what it says it is: a spacer that holds space in the described device of Stankus and it then selectively removed in an etching process. The resultant, usable device taught by Stankus, does not have spacer 70. Furthermore, the Stankus spacer 70 is not a support layer. It supports nothing. Instead it holds space and then is selectively etched away. As such, applicant respectfully submits that claim 25 is not, anticipated, taught or alluded to by the Stankus reference because Stankus does not anticipate, teach, or render obvious a "support layer on a portion of the outside edges for supporting the structure layers." Applicant respectfully requests that the rejections to claim 25 be withdrawn and submits that claim 25 is ready for allowance.

Accordingly, it is believed that entry of this amendment is warranted under the provisions of 37 CFR § 1.116, as it would clearly reduce those issues which might be present upon a filing of an Appeal. However, Applicant respectfully submits that the entry of this amendment is more importantly warranted in that it clearly causes these claims to be patentably distinguishable over the art of record and that this application should be reconsidered and all claims be indicated as allowed. Applicant therefore respectfully requests entry of this amendment, the reconsideration of this application and earnestly solicits an early Notice of Allowance.

Dated:

Respectfully submitted,

By 

Steven R. Greenfield

Registration No.: 38,166

JENKENS & GILCHRIST, A PROFESSIONAL
CORPORATION

1445 Ross Avenue, Suite 3200

Dallas, Texas 75202

(214) 855-4500